

# Court of Appeals, State of Michigan

## ORDER

Hazel Park Racing Association v Board of State Canvassers

Peter D. O'Connell  
Presiding Judge

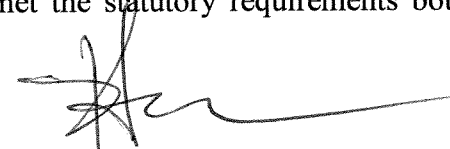
Docket No. 257568

William C. Whitbeck, C.J.

LC No. 00-000000

Donald S. Owens  
Judges

The Court orders that the complaint for mandamus is DENIED. It is well established that a substantive challenge to the subject matter of a petition is not ripe for review until after the law is enacted. *Hamilton v Secretary of State*, 212 Mich 31; 179 NW 553 (1920); *Senior Accountants, Analysts & Appraisers Ass'n v City of Detroit*, 218 Mich App 263, 270 n 5; 553 NW2d 679 (1996); *Automotive Club of Michigan Committee For Lower Rates Now v Secretary of State (On Remand)*, 195 Mich App 613; 491 NW2d 269 (1992); *Ferency v Bd of State Canvassers*, 198 Mich App 271; 497 NW2d 233 (1993); *Beechnau v Secretary of State*, 42 Mich App 328; 201 NW2d 699 (1972). Thus, any substantive challenge to a proposed amendment brought before the election is "premature." *Automobile Club of Michigan, supra*, 195 Mich App at 617. The Board of State Canvassers' authority and duties with regard to petitions proposing constitutional amendments is limited to determining whether the form of the petition substantially complies with the statutory requirements and whether there are sufficient signatures to warrant certification of the proposal. MCL 168.476; *Ferency v Secretary of State*, 409 Mich 569, 600; 297 NW2d 544 (1980); *Council About Parochiaid v Secretary of State*, 403 Mich 396; 279 NW2d 1 (1978); *Leininger v Secretary of State*, 316 Mich 644; 26 NW2d 348 (1947). In this case, the petition was properly certified because it met the statutory requirements both as to form and number of signatures.



Presiding Judge

Whitbeck, C.J., concurs, and wishes to briefly address plaintiffs' argument that the proposal would alter or abrogate several provisions of the Michigan Constitution, specifically article 2, § 9; article 4, § 3; article 4, § 27; and article 12, § 2, therefore requiring the Board of Canvassers to reject the petition for failing to include these provisions in violation of MCL 168.482(3). Having reviewed the language of these provisions, Chief Judge Whitbeck concludes that the proposal would not "add to, delete from, or change the existing wording of" these provisions, nor would it "render [them] wholly inoperative." *Coalition to Defend Affirmative Action v Bd of State Canvassers*, \_\_\_ Mich App \_\_\_, \_\_\_ NW2d \_\_\_ (2004); quoting *Massey v Secretary of State*, 457 Mich 410, 417; 579 NW2d 862 (1998), quoting *Ferency v Secretary of State*, 409 Mich 569, 597; 297 NW2d 544 (1980). Because the proposal would not alter or abrogate these provisions, the Board of Canvassers had no duty to reject the provision for violating MCL 168.482(3).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 03 2004

Date

  
Chief Clerk